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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,194

11/13/2003

Richard Leifer

200-88

8279

24336

7590

08/09/2005

KEUSEY, TUTUNJIAN & BITETTO, P.C.  
14 VANDERVENTER AVENUE, SUITE 128  
PORT WASHINGTON, NY 11050

EXAMINER

TON, ANABEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/712,194	<b>Applicant(s)</b> LEIFER, RICHARD	
	<b>Examiner</b> Anabel M. Ton	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-11,14-33 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11,14-17 and 35-37 is/are allowed.
- 6) ☒ Claim(s) 1,2,9,10,18,19,21-24,27,28 and 30-33 is/are rejected.
- 7) ☒ Claim(s) 6-8,20,25,26 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1,2,9,10,18,19,21-24,27,28,30-33 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 18, 21,30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackman.
4. Blackman discloses a night light comprising a light source and a reflector for receiving and reflecting light from said light source, an AC power connector(wiring) for connecting the night light to an outlet; a battery power source(50) ; and a sensor connected to said AC power connector for detecting AC power at the AC power connector (Abstract, figs 2-4).A controller for switching between said AC power connector and said battery power source when an AC power failure is detected by the AC power controller (relay switch, abstract). Blackman discloses an LED as a light source and a reflector (abstract).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 22, 24,27,28 are rejected under 35 U.S.C. 102(e) as being anticipated by Elghoury.

6. Elghoury discloses a night light comprising a light source, a power failure light source, an AC connector for connecting the night light to an outlet, and a power sensor connected to said AC power connector for detecting AC power connected to the night light, a reflector positioned in front of the light source to reflect light away from the light source (col. 3 lines 32-41). With regards to the recitation of "a power failure light source" since Elghoury discloses multiple light sources that function either while plugged in to an AC receptacle or by battery power when the AC power source has been removed from the night light, Elghoury is considered to satisfy the limitation "a light source" and "a power failure light source" since applicant has not provided any particular function for the "power failure light source" other than simply reciting "a power failure light source". With regards to a power sensor connected to the AC power connector for detecting AC power connected to the night light, Elghoury discloses the night light automatically switching to the battery light source when AC power is no longer detected (col. 5 lines 20-25), this is considered to satisfy the aforementioned limitation. With regards to the LED of Elghoury being a surface mount diode, since Elghoury states that power is provided to the LED's through printed wiring (circuit board), the LED's of Elghoury are considered to satisfy this limitation.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1,9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elghoury et al (6,648,496) and further in view of Blackman (5,473,517).

9. Elghoury et al discloses the claimed invention except for the recitation of specifically a power sensor connected to said AC power source. Elghoury et al discloses a night light comprising a light source (fig 5); and a reflector for receiving and reflecting light from said light source (claim 1 discloses an optical assembly for focusing and dispersing LED light to a desired light contour, this satisfies the function of a reflector), an AC power connector for connecting the night light to an AC power source (104), a battery power source (160) a connection means connected to said AC power connector for detecting a AC power connected to the night light and connecting said battery power source in the event of a detection of AC power failure through said AC power connector( col. 5 lines 10-25). Blackman discloses an emergency safety light with a power-sensing device for sensing power interruption an on/off relay switch, which is turned on in response to a power failure and actuates an emergency light source. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the power sensing device of Blackman in the device of Elghoury for providing Elghoury with a means for detecting loss of AC power through the power

connection device since as taught by Blackman such a feature is purposeful for providing an emergency light device connected to AC power source with a means for switching on an emergency light source when power loss is detected.

- Said light source comprises a light emitting diode (LED)(Elghoury);
- A secondary light source disposed in said housing and directed to illuminate an area around the night light (26) (Elghoury);

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elghoury et al in further view of Blackman applied to claim1 above, and further in view of Barton (6,805,469).

11. Elghoury and Blackman disclose the invention as claimed above. Barton discloses a safety lighting device that has an ambient light sensor that switches on the respective light source connected to the lighting device when ambient light has reached a level below a desired threshold. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a ambient light sensor in the device of Elghoury in combination with the power sensor of Blackman for the purpose of providing the device of Elghoury in addition to a means for detecting power failure that subsequently initiates a light source, a ambient light detecting means, as taught by Barton, that provides the light device with another means for initiating the light source in this case, when the ambient light falls below a desired threshold.

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blackman as applied to claim18 above, and further in view of Barton.

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13. Blackman discloses the invention as stated above. Blackman does not teach a light sensor. Barton discloses a light sensor for use in a safety lighting device that initiates the respectively connected light source when ambient light has fallen below a desired threshold. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teaching of an ambient light sensor as taught by Barton in the device of Blackman for the purpose of providing Blackman with the additional feature of an ambient light sensor that would provide Blackman with another means for initiating the light source in this case, when the ambient light falls below a desired threshold.

14. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elghoury as applied to claim 22 above, and further in view of Barton.

15. Elghoury discloses the claimed invention as recited above except for the recitation of a light sensor. Barton discloses a light sensor for use in a safety lighting device that initiates the respectively connected light source when ambient light has fallen below a desired threshold. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teaching of an ambient light sensor as taught by Barton in the device of Elghoury for the purpose of providing Elghoury with the additional feature of an ambient light sensor that would provide another means for initiating the light source in this case, when the ambient light falls below a desired threshold.

***Allowable Subject Matter***

16. Claim 6-8, 20,25,26, 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. Claims 11,14-17,35-37 are allowed.

18. The following is a statement of reasons for the indication of allowable subject matter: The reasons for the indication of allowable subject matter can be found in the previous office action dated 03/09/05.

***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

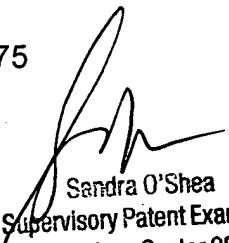
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMT

Anabel M Ton  
Examiner  
Art Unit 2875



Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800